

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

JAMES LUCAS,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-04575

WARDEN RALPH TERRY, et al.,

Defendants.

ORDER

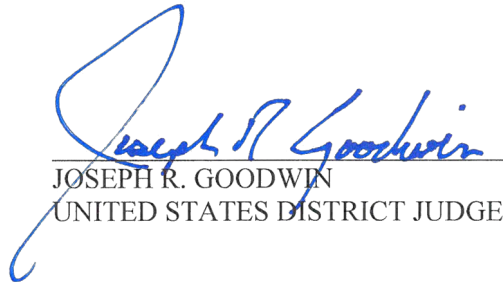
This action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings of fact and recommendation for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On August 21, 2018, Judge Tinsley submitted his Proposed Findings and Recommendation [ECF No. 5] (“PF&R”), recommending the court dismiss this matter for failure to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A. On August 29, 2018, the plaintiff timely submitted his objections to the PF&R [ECF No. 6].

The court has reviewed the plaintiff’s objections to the Magistrate Judge’s PF&R and finds his objections lack merit. Accordingly, the court **OVERRULES** the plaintiff’s objections [ECF No. 6], **ADOPTS** the PF&R [ECF No. 5] in full, and **DISMISSES with prejudice** the plaintiff’s Complaint [ECF No. 1] for failure to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A.

The court has now dismissed three or more of the plaintiff's lawsuits for failure to state a claim upon which relief can be granted. Thus, although the Magistrate Judge did not make such a finding in the PF&R and the court does not expressly find here, the plaintiff is barred by 28 U.S.C. § 1915(g) from pursuing further actions in forma pauperis unless he is "under imminent danger of serious physical injury."

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, any unrepresented party, and the Magistrate Judge.

ENTER: October 22, 2018



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE